

CALIFORNIA STATE PERSONNEL BOARD MEETING\*  
801 Capitol Mall  
Sacramento, California

Public Session Location - Room 150

Closed Session Location - Room 141

MID-MONTH MEETING MINUTES\*\*

January 28, 2004

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

BOARD MEMBERS PRESENT:

William Elkins, President  
Ron Alvarado, Vice President  
Anne Sheehan, Member

2. REPORT OF THE EXECUTIVE OFFICER - Presented by Laura Aguilera,  
Interim Executive Officer

The Board was advised of the following:

- A. The Senate Select Committees on Government Oversight and the California Correctional System, co-chaired by Senators Jackie Speier and Gloria Romero, held a two-day investigative hearing regarding the California Department of Correction's investigative and disciplinary processes. The committee heard testimony regarding the retaliation and treatment of whistleblowers, the employee union's influence on investigations and discipline, and the investigative

---

\*\* The State Personnel Board Summary Minutes can be obtained at the following Internet address:  
<http://www.spb.ca.gov/calendar.htm>

deficiencies by the department. Staff from the State Personnel Board were invited to observe the testimony and respond to any questions.

- B. The Governor has indicated that he will establish a California Performance Review Commission to conduct a comprehensive examination of state government operations in order to examine for efficiencies.
- C. Staff from the State Personnel Board met with representatives of the California Civil Rights Officers Council to discuss program concerns and to share ideas on training needs.
- D. The Bilingual Services Unit has completed the video entitled "Language Assistance for Limited-English Proficient Persons": Your Responsibilities under the Dymally-Alatorre Bilingual Services Act. The video includes an introduction by Assemblyman Mervyn Dymally, one of the original authors of the bill.

3. REPORT OF THE CHIEF COUNSEL - Elise Rose

The Chief Counsel Reported on the following:

Litigation:

- A. Association of California State Attorneys and Administrative Law Judges (ACSA) v. State Personnel Board (SPB) - SPB has filed its respondent's brief in the Supreme Court. ACSA (now CASE) has been given an extension of time to file their brief as has the California Department of Forestry and Fire Protection Firefighters to file their reply.
- B. International Union Of Operating Engineers (IUOE) v. SPB - SPB filed its exceptions to the Public Employment Relations Board, Administrative Law Judge's decision in this case on January 20, 2004.
- C. SPB v. California State Employees Association (CSEA) (post and bid)- SPB has filed a petition for review with the Supreme Court.

- D. Caltrans v. SPB (Senbetu) and Caltrans v. SPB (Najaar)  
Caltrans has filed petitions for writ of mandate to be consolidated with Torossian re-application of immigration provisions of the non-punitive termination statute.
- E. State Compensation Insurance Fund (SCIF) v. SPB (CSEA)  
Petition for writ of mandate filed in this case in which Board held contracts for personal services that SCIF argued were justified by freeze exemption were not valid.

Other:

Chief Counsel Elise Rose and Legislative Director Sherry Hicks attended the senate hearings on whether the California Department of Corrections can police itself. The Board may want to discuss its recommendations to the legislature in light of the testimony at this hearing.

4. REPORT ON LEGISLATION

No report given

BOARD ACTIONS

- 5. ADOPTION OF THE STATE PERSONNEL BOARD SUMMARY MINUTES OF JANUARY 13, 2004  
ACTION: Adopted on January 28, 2004  
VOTE: Elkins, Alvarado, Sheehan - Aye
- 6. ACTION ON SUBMITTED ITEMS  
(See Minutes Page 17)  
These items have been taken under submission by the State Personnel Board at a prior meeting. This list does not include evidentiary cases, as those cases are listed separately by category.

7. EVIDENTIARY CASES

On January 28, 2004, the Board adopted by vote as indicated below, the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Alvarado, Sheehan - Aye

A. BOARD CASES SUBMITTED

These cases have been taken under submission by the State Personnel Board at a prior meeting.

RICHARD COELHO, CASE NO. 02-1796R  
Appeal from constructive medical termination  
Fish and Game Warden  
Department of Fish and Game  
NO ACTION

CYNTHIA GEORGE, CASE NOS. 02-4017 & 03-1058  
from a two-week and a three-week suspension  
Administrative Law Judge  
Unemployment Insurance Appeals Board  
NO ACTION

B. CASES PENDING

- Oral Arguments  
These cases are on calendar to be argued at this meeting or to be considered by the Board in closed session based on written arguments submitted by the parties.

NONE

C. CHIEF COUNSEL RESOLUTIONS

- Court Remands  
These cases have been remanded to the Board by the court for further Board action.

NONE

- Stipulations  
These stipulations have been submitted to the Board for Board approval, pursuant to Government Code, section 18681.

NONE

ADMINISTRATIVE LAW JUDGE'S (ALJ) PROPOSED DECISIONS

- Proposed Decisions  
These are ALJ proposed decisions submitted to the Board for the first time.

BENJAMIN ALEJANDRO, CASE NO. 03-2495  
Appeal from dismissal  
Janitor  
Department of General Services  
ACTION: Dismissal modified to a four month suspension.

DONALD ATKINS, CASE NO. 03-1448  
Appeal from five-percent reduction  
in salary for six months  
Correctional Officer  
California State Prison, San Quentin  
Department of Corrections at San Quentin  
ACTION: Five-percent reduction in salary for six months revoked.

VICKI LEE BERG, CASE NO. 03-2898  
Appeal from five-percent reduction  
in salary for six months  
Correctional Officer  
High Desert State Prison, Susanville  
Department of Corrections  
ACTION: Five percent salary reduction for six months sustained.

LANE CALDWELL, CASE NO. 03-3130  
Appeal from five-working-days suspension  
Fire Captain  
Department of Forestry and Fire Protection  
ACTION: Five-working days suspension sustained.

Minutes Page 6  
January 28, 2004

STEPHANIE COOKE, CASE NO. 03-2904  
Appeal from dismissal  
Office Assistant (Typing)  
Employment Development Department  
ACTION: Appeal dismissed.

ROSIE L. DASHIELL, CASE NO. 03-2279  
Appeal from dismissal  
Public Safety Dispatcher I  
California Highway Patrol  
ACTION: Administrative Law Judges proposed decision  
rejected by Board. Board to decide case itself.

LEON DAVIS, CASE NO. 03-2084  
Appeal from 30 calendar days suspension  
Correctional Officer  
California State Prison, San Quentin  
Department of Corrections  
ACTION: Suspension sustained.

COLLEEN FOLTZ, CASE NO. 03-3038  
Appeal from two-work-days suspension  
Family Assistance Representative II  
Human Services Agency  
ACTION: Suspension sustained.

KEVIN FRAZIER, CASE NO. 03-0736  
Appeal from a one-step reduction in  
salary for six months  
Correctional Officer  
California State Prison, San Quentin  
Department of Corrections  
ACTION: Administrative Law Judges proposed decision  
rejected by Board. Board to decide case itself.

ANTHONY GILLESPIE, CASE NO. 03-2498  
Appeal from ten-percent reduction in  
salary for twelve months  
Service Assistant (Janitor)  
Department of Veterans Affairs  
ACTION: Ten-percent reduction in salary for  
twelve months modified to ten-percent reduction in  
salary for nine months.

Minutes Page 7  
January 28, 2004

LESTER HORNER, CASE NO. 03- 03-0872  
Appeal from five-percent reduction  
in salary for three months  
Caltrans Equipment Operator II  
ACTION: Five-percent reduction in  
salary for three months modified to an  
official reprimand.

DONNA MARTINEZ, CASE NO. 03-2232  
Appeal from dismissal  
Material & Stores Supervisor I  
Central California Women's Facility,  
Department of Corrections  
ACTION: Administrative Law Judges proposed decision  
rejected by Board. Board to decide case itself.

DANIEL McBRIDE, CASE NO. 03-0907  
Appeal from five-percent reduction in  
Salary for four months  
Tax Technician II  
Board of Equalization  
ACTION: Five-percent reduction in salary for four  
months sustained.

DONNA OVERLEY, CASE NOS. 02-0251B & 02-0995B  
Appeal for determination of back salary,  
benefits and interest  
Office Assistant  
California State Prison, Corcoran  
Department of Corrections  
ACTION: Back salary, benefits and interest  
sustained.

ARNOLD ROPER, CASE NO. 03-2532  
Appeal from dismissal  
Employment Program Representative  
Employment Development Department  
ACTION: Dismissal sustained.

PHUONG VU, CASE NO. 03-1145  
Appeal from dismissal  
Transportation Engineer (Civil)  
Department of Transportation  
VOTE: Administrative Law Judges proposed decision  
rejected by Board. Board to decide case itself.

JOHNNIE WALKER, JR. CASE NOS. 02-4021  
Appeal from dismissal  
Office Assistant  
Department of Transportation  
ACTION: Dismissal modified to a six months  
suspension.

- Proposed Decisions Taken Under Submission At Prior Meeting

These are ALJ proposed decisions taken under submission at a prior Board meeting, for lack of majority vote or other reason.

NONE

- Proposed Decisions After Board Remand

BEVERLY A. WILSON, CASE NO. 03-1150R  
Appeal from dismissal  
Administrative Support Assistant II  
California State University, Carson  
ACTION: Administrative Law Judges proposed decision rejected by Board. Board to decide case itself.  
Note: Board President Elkins abstained from vote.

- Proposed Decisions After SPB Arbitration

NONE

D. PETITIONS FOR REHEARING

- ALJ Proposed Decisions Adopted By The Board  
The Board will vote to grant or deny a petition for rehearing filed by one or both parties, regarding a case already decided by the Board.

JACQUES HIRSCHLER - CASE NO. #02-1276  
Appeal from Dismissal  
Chief Medical Officer  
Deuel Vocational Institute - Tracy



Minutes Page 9  
January 28, 2004

Department of Corrections  
Petition for rehearing filed by  
Respondent denied.  
CHRISTINA SALAZAR, CASE NO. 99-5136  
Appeal from reasonable accommodation  
Disability Insurance Representative  
Employment Development Department  
Petition for rehearing filed by  
Appellant denied.

JAMES C. WHITE, Case No. 03-1248  
Appeal from demotion  
Caltrans Maintenance Supervisor  
Department of Transportation at Redding  
Petition for rehearing filed by  
Appellant denied.

- Whistleblower Notice of Findings  
The Board will vote to grant or deny a petition for rehearing filed by one or both parties, regarding a Notice of Findings issued by the Executive Officer under Government Code, section 19682 et seq. and Title 2, California Code of Regulations, section 56 et seq.

- F. PENDING BOARD REVIEW  
These cases are pending preparation of transcripts, briefs, or the setting of oral argument before the Board.

DORYANNA ANDERSON-JOHNSON, CASE NO.  
00-1687  
Appeal from denial of reasonable accommodation  
Correctional Lieutenant  
California Rehabilitation Center - Norco  
Department of Corrections  
NO ACTION

SAMUEL BRYANT, CASE NO. 00-4238  
Appeal from dismissal  
Youth Correctional Officer  
Department of Youth Authority  
NO ACTION

RANDALL DODSON, Case No. 03-1587  
Appeal from non-punitive termination

Minutes Page 10  
January 28, 2004

Caltrans Equipment Operator I  
Department of Transportation  
NO ACTION

RAYMOND ERNANDEZ, CASE NO. 01-4251  
Appeal from five-percent reduction in salary for six  
months  
Correctional Officer  
California Institution for Men - Chino  
Department of Correction  
NO ACTION

FRANK GARCIA, CASE NO. 03-1906  
Appeal from Dismissal  
Caltrans Highway Maintenance Worker  
Department of Transportation  
NO ACTION

DONALD HERMANS, CASE NO. 03-0384  
Appeal from dismissal  
Correctional Officer  
California State Prison - Lancaster  
NO ACTION

THEODORE HUGHING  
Appeal from Medical Termination/Demotion/Transfer  
Food Service Supervisor I  
Department of Developmental Services  
NO ACTION

MARY HUTTNER, CASE NO. 02-1690  
Appeal from demotion  
Staff Services Manager I to the  
position of Associate Health Program  
Advisor (top step)  
Department of Health Services  
NO ACTION

CONNIE JOHNSON, CASE NO. 03-2620  
Appeal from 30 calendar days suspension  
Employment Program Representative  
Employment Development Department  
NO ACTION

MAMIE JONES, CASE NO. 02-4441  
Appeal from ten-percent reduction in  
Salary for five months  
Dispatcher Clerk  
Department of Transportation

Minutes Page 11  
January 28, 2004

NO ACTION

PAUL H. KEMP, Case No. 01-2841  
Appeal from dismissal  
Teacher Assistant - Youth Correctional  
Reception Center and Clinic - Sacramento  
Department of the Youth Authority  
NO ACTION

NEIL MADDEN, CASE NO. 03- 1682  
Appeal from five-percent reduction  
in salary for three months  
Correctional Officer  
Centinela State Prison - Imperial  
Department of Corrections  
NO ACTION

CHRISTOPHER MIRAMONTES, CASE NO. 03-2299  
Appeal from five-percent reduction in salary for six  
months  
Special Agent  
Department of Corrections  
NO ACTION

NANCY SEARS, CASE NO. 02-2444  
Appeal from two-step reduction in salary for 12  
months and transfer/reassignment  
Parole Agent I (Adult Parole)  
Department of Corrections - Sacramento  
NO ACTION

ELANGO VAN SITTRAMBARAM, CASE NO. 03-2401  
Appeal from suspension for six months  
Student Administration Technical Programmer/Analyst  
California State University - Long Beach

NANCY VALENTINO, Case No. 03-0699  
Appeal from dismissal  
Psychiatric Technician  
Department of Developmental Services  
NO ACTION

BOBBY WANG, CASE NO. 02-2684  
Appeal from dismissal  
Motor Vehicle Field Representative  
Department of Motor Vehicles  
NO ACTION

BEVERLY WILSON, CASE NO. 03-1150  
Appeal from dismissal  
Administrative Support Assistant II  
California State University  
NO ACTION

8. RESOLUTION EXTENDING TIME UNDER GOVERNMENT CODE  
SECTION 18671.1 EXTENSION  
(See Agenda Page 21)

9. NON-EVIDENTIARY CASES

A. WITHHOLD APPEALS

On January 28, 2004 the Board adopted the following  
decisions presented by Laura Aguilera, Interim Executive  
Officer, California State Personnel Board.  
VOTE: Elkins, Alvarado, Sheehan - Aye

JOSE DE LA TORRE, CASE NO. 03-0799  
Classification: Correctional Officer  
California Department of Corrections  
ACTION: GRANTED

YVONNE FERNANDEZ, CASE NO. 03-0779  
Classification: Correctional Officer  
California Department of Corrections  
ACTION: DENIED

FERNANDO FIGUEROA, JR., CASE NO. 02-3487  
Classification: Correctional Officer  
California Department of Corrections  
ACTION: DENIED

ALISE FREY, CASE NO. 03-0745  
Classification: Correctional Officer  
California Department of Corrections  
ACTION: DENIED

BENNY HAMILTON, CASE NO. 03-1559  
Classification: Correctional Officer  
California Department of Corrections  
ACTION: DENIED

THOMAS KEEHBAUCH, CASE NO. 03-1218  
Classification: Correctional Officer

Minutes Page 13  
January 28, 2004

California Department of Corrections  
ACTION: DENIED

LATRESE KING, CASE NO. 03-1052  
Classification: Correctional Officer  
California Department of Corrections  
ACTION: DENIED

ARIANNE KOZNEK, CASE NO. 03-0421  
Classification: Cadet, CHP  
California Highway Patrol  
ACTION: DENIED

DAVID LOPEZ, CASE NO. 03-0718  
Classification: Correctional Officer  
California Department of Corrections  
ACTION: DENIED

DAVID NEWTON, CASE NO. 03-1598  
Classification: Hospital Police Officer  
California Department of Mental Health  
ACTION: DENIED

BRANDON PELSMAEKER, CASE NO. 03-1047  
Classification: Cadet, CHP  
California Highway Patrol  
ACTION: DENIED

SHARIE SATTERFIELD, CASE NO. 03-0838  
Classification: Key Data Operator  
State Personnel Board  
ACTION: DENIED

DWIGHT THOMAS, CASE NO. 03-0483  
Classification: Correctional Officer  
California Department of Corrections

GRISELDA THOMAS, CASE NO. 03-0986  
Classification: Correctional Officer  
California Department of Corrections  
ACTION: DENIED

XANG VANG, CASE NO. 03-1038  
Classification: Correctional Officer  
California Department of Corrections  
ACTION: DENIED

B. RULE 212 OUT-OF-CLASS APPEALS - NONE

VOIDED APPOINTMENT APPEALS

RULE 211 APPEALS - NONE

Cases heard by a Staff Hearing Officer, or a managerial staff member of the State Personnel Board. The Board will be presented recommendations by a Staff Hearing Officer for final decision on each appeal.

(Voided Appointment)

GERRIE WEISE, CASE NO. 03-1946

Classification: Heavy Equipment Mechanic, CF

Department of Forestry and Fire Protection

ACTION: GRANTED

C. REQUEST TO FILE CHARGES CASES

PETITIONS FOR REHEARING CASES - NONE

Investigated by Appeals Division staff. The Board will be presented recommendations by Appeals Division staff for final decision on each request.

(RTFC Cases)

MARY BALL-SMITH, CASE NO. 03-1818

Classification: Employment Program Representative (EPR)

Employment Development Department

ACTION: DENIED

KONSTANTINOS DIMOYANNIS, CASE NO. 03-0476

Classification: Research Analyst I

Department of Industrial Relations

ACTION: DENIED

ELISABETH FIGEROID, CASE NO. 03-0394

Classification: An employee of the Department of Fish and Game

ACTION: DENIED

10. NON-HEARING CALENDAR

On January 28, 2004, the Board adopted item A and B.

This item was presented by Karen Coffee, Merit Employment and Technical Resources Division Chief, California State Personnel Board.

VOTE: Elkins, Alvarado, Sheehan - Aye

A. CHIEF INVESTMENT OFFICER, INVESTMENT DIRECTOR,  
SYSTEM ACTUARY

The California Teachers' Retirement System proposes to establish the above managerial designated civil service classes, each with a twelve month probationary period.

B. HEAVY EQUIPMENT BODYWORKER/PAINTER  
SERIES

The California Department of Transportation proposes to revise the Heavy Equipment Bodyworker/Painter series specification to reflect the technical skills and knowledge needed for adequate job performance and compliance with current laws and regulations. In addition the department proposes to add a Special Personal Characteristics section that includes wording related to the candidate's ability and willingness to use respiratory equipment when painting/coating and performing other duties requiring respiratory protection, which is current standard practice.

11. STAFF CALENDAR ITEMS FOR BOARD INFORMATION

NONE PRESENTED

12. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

A. REQUESTS TO ESTABLISH NEW CEA POSITIONS CURRENTLY  
UNDER CONSIDERATION

(1) ASSISTANT DIRECTOR OF ADMINISTRATION

The Department of Conservation proposes to allocate the above position to the CEA category. The Assistant Director of Administration is responsible for formulating, recommending and implementing departmental policy in the areas of budget, administrative services, accounting and human resources.

(2) STANFORD MANSION MANAGER

The Department of Parks and Recreation proposes to allocate the above position to the CEA category. The Stanford Mansion Manager's responsibilities include development and implementation of departmental policies for the use of the Stanford Mansion by the Governor and

Legislative Leadership for official receptions, meetings, conferences, and other ceremonial functions and for public tours as a historical state park.

B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO  
ESTABLISH NEW CEA POSITIONS

- (1) CHIEF, INVESTMENTS/PENSION FUNDS LIAISON  
The State Treasurer's Office has withdrawn their request to establish the above position to the CEA category effective December 12, 2003.
- (2) DISTRICT 6, DEPUTY DISTRICT DIRECTOR, PLANNING & LOCAL ASSISTANCE PROGRAMS  
The Department of Transportation's request to establish the above position to the CEA category has been disapproved effective December 17, 2003.
- (3) ASSISTANT DEPUTY DIRECTOR, PROCUREMENT  
The Department of General Services' request to establish the above position to the CEA category has been approved effective December 22, 2003.
- (4) INVESTMENTS/PUBLIC FINANCE LIAISON OFFICER  
The State Treasurer's Office's request to establish the above position to the CEA category has been approved effective December 23, 2003.

ACTION: Noted

A D J O U R N M E N T



SUBMITTED

1. TEACHER STATE HOSPITAL (SEVERELY), ETC. Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002).

NO ACTION

2. VOCATIONAL INSTRUCTOR (SAFETY) (VARIOUS SPECIALTIES). Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002).

NO ACTION

3. TELEVISION SPECIALIST (SAFETY)  
The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003).

NO ACTION

4. PSC NO. 03-04  
Appeal of the California Department of Education and McGeorge School of Law from the Executive Officer's April 30, 2003, disapproval of a contract for special education mediation conferences and due process hearings. (Hearing held October 7, 2003).

NO ACTION

**NOTICE OF GOVERNMENT CODE § 18671.1 RESOLUTION**

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

**GOVERNMENT CODE § 18671.1 RESOLUTION**

**WHEREAS**, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

**WHEREAS**, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

**WHEREAS**, the Agenda for the instant Board meeting included an item titled "Notice of Government Code § 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

**WHEREAS**, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED** that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

★ ★ ★ ★ ★

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on January 28, 2004.

VOTE: Elkins, Alvarado, Sheehan - Aye.

---

LAURA AGUILERA  
Interim Executive Officer  
California State Personnel Board